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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,548	02/17/2004	Kenneth W. Broussard	010676.000003	7459

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EXAMINER

TAPOLCAI, WILLIAM E

ART UNIT

PAPER NUMBER

3744

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/780,548

Applicant(s)

BROUSSARD, KENNETH W.

Examiner

William E. Tapolcai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 9, 12, 20 and 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 11, 17-19, 21-26 and 28 is/are rejected.
- 7) ☒ Claim(s) 13-16 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20040907.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

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1. This application contains claims directed to the following patentably distinct species of the claimed invention: Figs. 1-5, Figs. 6-8 and 10, and Fig. 9.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 22 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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2. During a telephone conversation with Chris Northcutt on April 11, 2005 a provisional election was made without traverse to prosecute the invention of Figs. 6-8 and 10, claims 1-8, 10, 11, 13-19, and 21-28. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9, 12, 20, and 29 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4, 5, 10, 17-19, 22, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Filipowski. Filipowski discloses a portable container having an electrical temperature regulating unit having a refrigeration unit 14 and a heating unit 20. A temperature controller 21 is also disclosed.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11, 21, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Filipowski. Filipowski discloses the claimed invention except for the rotary compressor, amount of cargo space, and type of heating unit. All of these elements are considered to be matters of obvious choice to one of ordinary skill in the

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art, as no criticality or unexpected results are seen or have been disclosed for the recitation of the rotary compressor, the cargo space being at least 30 cubic feet, and the heating unit being an electric coil.

7. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Filipowski in view of Tamaoki et al. Filipowski discloses the claimed invention except for the vacuum insulated panels. Tamaoki et al teaches a refrigeration cabinet which comprises vacuum insulated panels. It would be obvious to provide the cabinet of Filipowski with vacuum insulated panels, in view of Tamaoki et al, for the purpose of providing panels that are easy to manufacture.

8. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Filipowski in view of Demirkiran. Filipowski discloses the claimed invention except for the power supply being a DC source. Demirkiran teaches a refrigerator having a DC power source. It would be obvious to provide Filipowski with a DC power source, in view of Demirkiran, for the purpose of having more than one power source in case of power failure.

9. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Filipowski in view of Bergmann. Filipowski discloses the claimed invention except for the fan for circulating air over the coils. Bergmann teaches a container having cooling coils and a fan for circulating air over the coils. It would be obvious to provide Filipowski with a fan, in view of Bergmann, for the purpose of enhancing the cooling effect of the coils.

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10. Claim 3 recites the limitation "the insulated vacuum panels" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. Claim 3 should depend from claim 2 instead of claim 1.

11. Claim 14 recites the limitation "the computer port" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 14 should depend from claim 13 instead of claim 1.

12. Claim 18 recites the limitation "the top" in line 1. There is insufficient antecedent basis for this limitation in the claim.

13. Claims 13-16, and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

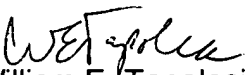
14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Tapolcai whose telephone number is (703) 308-2640. The examiner can normally be reached on Mon. - Thurs., 6:30 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise L. Esquivel can be reached on (703) 308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
William E. Tapolcai  
Primary Examiner  
Art Unit 3744

wet  
April 11, 2005